Centers for Medicare & Medicaid Services (CMS)
Special Terms and Conditions

Project Number: 11-W-0074/6
Project Title: Arkansas Family Planning 1115 Demonstration – "Women's Health"
Awardee: State of Arkansas, Department of Human Services

Financial Issues

1. a. All requirements of the Medicaid program expressed in law not expressly waived or identified as not applicable in the award letter of which these Special Terms and Conditions are part, will apply to Arkansas' Family Planning Services Section 1115 Demonstration. To the extent the enforcement of such laws, regulations, and policy statements would have affected State spending without the demonstration in ways not explicitly anticipated in this agreement, CMS will incorporate such effects into a modified budget limit for this Family Planning section 1115 demonstration program. The modified budget limit would be effective upon enforcement of the law, regulation, or policy statement. If the law, regulation, or policy statement cannot be linked specifically with program components that are or are not affected by the Family Planning section 1115 demonstration (e.g., all disallowances involving provider taxes or donations), the effect of enforcement on the State's budget limit will be proportional to the size of the Family Planning section 1115 demonstration in comparison to the State's entire Medicaid program (as measured in aggregate medical assistance payments).

   b. The State will, within the time specified in law, come into compliance with any changes in Federal law affecting the Medicaid program that occur after the award date of the demonstration. To the extent that a change in Federal law, which does not exempt State section 1115 demonstrations, would affect State Medicaid spending without the demonstration, CMS will incorporate such changes into a modified budget limit for the Family Planning section 1115 demonstration. The modified budget limit will be effective upon implementation of the change in Federal law, as specified in law. If the new law cannot be linked specifically with program components that are or are not affected by the Family Planning section 1115 demonstration (e.g., laws affecting sources of Medicaid funding), the State will submit its methodology to CMS for complying with the change in law. If the methodology is consistent with Federal law and in accordance with Federal projections of the budgetary effects of the new law in Arkansas, CMS would approve the methodology. Should CMS and the State, working in good faith to ensure State flexibility, fail to develop within 90 days a methodology to revise the without demonstration baseline that is consistent with Federal law and in accordance with Federal budgetary projections, a reduction in Federal payments will be made according to the method applied in non-demonstration States.

c. The State may submit to CMS a request for an amendment to the Family Planning demonstration to request exemption from changes in law occurring after the award date of the demonstration. The cost to the Federal government of such an amendment must be offset to ensure that total projected expenditures under a modified Family Planning section 1115 demonstration program do not exceed projected expenditures without the Family Planning section 1115 demonstration (assuming full compliance with the change in law).

d. Budget Neutrality Monitoring Procedures (See Attachment A).

2. The following financial reporting procedures must be adhered to:

a. To track expenditures under this demonstration, Arkansas will report net expenditures in the same manner as is done under the current Medicaid program. The State will provide quarterly expenditure reports using Form CMS-64 to separately report expenditures for those receiving services under the Medicaid program and those participating in the demonstration. CMS will provide Federal financial participation (FFP) only for allowable demonstration expenditures that do not exceed the predefined limits as specified in Attachment A. Demonstration participants include all individuals who obtain one or more covered medical family planning services through the demonstration.

b. Arkansas will report demonstration expenditures through the Medicaid Budget Expenditure System (MBES), following routine CMS-64 reporting instructions outlined in Section 2500 of the State Medicaid Manual. In this regard, demonstration expenditures will be differentiated from other Medicaid expenditures by identifying on Forms CMS-64.9 Waiver and/or 64.9P Waiver the demonstration project number assigned by CMS (including the project number extension, which indicates the demonstration year in which services were rendered). For monitoring purposes, cost settlements attributable to the expenditures subject to the budget neutrality cap must be reported on line 10B, in lieu of lines 9 or 10C.

c. The Federal share for demonstration expenditures matched at the State's regular match rate should be reported using column (B) of Form CMS 64.9 Waiver and/or 64.9P Waiver and in column (D) for services eligible for the family planning match rate of 90 percent.

d. All claims for Arkansas' Family Planning services provided during the demonstration period (including any cost settlements) must be made within two years after the calendar quarter in which the State made the expenditures. During the period following the conclusion or termination of the demonstration, the State must continue to separately identify demonstration expenditures using the procedures outlined above.

e. The State will provide to CMS, on a quarterly basis, the number of individuals enrolled in the demonstration. This information should be provided to CMS with the quarterly report.

f. Administrative costs will not be included in budget neutrality; however, the State must separately track and report administrative costs attributable to the demonstration on the Form CMS-64.10 Waiver and/or, 64.10P Waiver.

g. The State will provide to CMS, on a yearly basis, the average cost of a Medicaid-funded birth. The cost of a birth includes prenatal services and delivery and pregnancy related services and services to infants from birth through age five for the child. (The services should be limited to the services that are available to women who are eligible for Medicaid because of their pregnancy.)

h. The State will submit to CMS, on a yearly basis, the number of actual births that occur to demonstration participants.

i. The State Medicaid Agency must institute a data sharing relationship with the State Agency overseeing the calculation of vital statistics in order to ensure State compliance with the birth data reporting requirements under the Waiver. The State must notify CMS if birth data will not be available within three months of the end of each demonstration year.

4. The standard Medicaid funding process will be used during the demonstration. The State must estimate matchable Arkansas Medicaid demonstration expenditures on the quarterly Form CMS-37. The State must provide supplemental schedules that clearly distinguish between demonstration expenditure estimates (by major component) and non-demonstration Medicaid expenditure estimates. CMS will make Federal funds available each quarter based upon the State's estimates, as approved by CMS. Within 30 days after the end of each quarter, the State must submit the Form CMS-64 quarterly Medicaid expenditure report, showing Medicaid expenditures made in the quarter just ended. CMS will reconcile expenditures reported on Form CMS-64 with Federal funding previously made available to the State for that quarter, and include the reconciling adjustment in a separate grant award to the State.

5. CMS will provide FFP at the appropriate administrative matching rate for administrative costs associated with family planning services rendered under Arkansas' Family Planning program.

6. The State will certify State/local monies used as matching funds for demonstration purposes and will further certify that such funds will not be used as matching funds for any other Federal grant or contract, except as permitted by Federal law.

7. FFP for services (including prescriptions) provided to women under the family planning demonstration will be available at the following rates:

a. For services whose primary purpose is family planning (determining family size) and which are provided in a family planning setting, FFP will be available at the 90 percent matching rate. Procedure codes for office visits, laboratory and other tests and procedures must carry a type-of-service (TOS) "A" code that specifically identifies them as a family planning service. Procedures and services eligible for the 90 percent match are described in CMS's Revised Financial Management Review Guide for Family Planning Services dated January 28, 1993 and in the Revised Family Planning Coding Matrix dated September 8, 1997.

b. For medical diagnosis or treatment services that are provided ancillary to a family planning service in a family planning setting--specifically, follow-up diagnostic tests, treatment for sexually transmitted infections (STIs) and complication services--and which carry a TOS "A" code which indicates that they are related to a family planning service, FFP will be available at the FMAP rate. "Family planning setting" excludes inpatient hospital.

c. FFP will not be available for the costs of any services, items or procedures that do not meet the requirements specified above, even if family planning clinics or providers provide them.

d. For example, in the instance of testing for an STI as part of a family planning visit, the match rate would be 90 percent. The match rate for the subsequent treatment would be the regular FMAP rate. For testing or treatment not associated with a family planning visit, no match would be available.

8. Outreach performed by the Medicaid agency or other entities under contract to the Medicaid agency will be claimed at the administrative match of 50 percent FFP.

9. The State shall facilitate access to primary care services for enrollees in the Medicaid section 1115 family planning demonstration. The State shall submit to CMS a copy of the written materials that are distributed to the family planning demonstration participants as soon as they are available. The written materials must explain to the participants how they can access primary care services. In addition, the State must evaluate the impact of providing referrals for primary care services. This component of the evaluation must be highlighted in the evaluation design report that will be submitted to CMS (see term and condition #23).

10. Within 60 days from the date of the award of the demonstration extension, the State will provide to CMS an appropriate methodology for ensuring the eligibility of individuals covered under the family planning demonstration based on the eligibility qualifications the State established under the demonstration.

Administrative Issues

11. The awardee will submit narrative progress reports 30 days from the end of each quarter. The format for the progress reports will be agreed upon prior to the submission of the first report. The fourth quarterly report will summarize the preceding year's activity and

serve as the annual report. The annual report will be due 90 days from the end of the fourth quarter of each project year.

12. Arkansas should submit a draft final report to the CMS project officer for comments. The awardee should consider CMS's comments for incorporation in the final report. The final report is due 90 days after the end of the project.

13. The final report of the project may not be released or published without permission from the CMS project officer within the first four months following receipt of the report by the CMS project officer. The final report will contain a disclaimer that the opinions expressed are those of the awardee and do not necessarily reflect the opinions of CMS.

14. Arkansas will notify the CMS project officer before formal presentation of any report or statistical or analytical material based on information obtained through this cooperative agreement. Formal presentation includes papers, articles, professional publications, speeches and testimony. During this research, whenever the principal investigator determines that a significant new finding has been developed, he or she will immediately communicate it to the CMS project officer before formal dissemination to the general public.

15. The awardee will assume responsibility for the accuracy and completeness of the information contained in all technical documents and reports submitted. The CMS project officer will not direct the interpretation of the data in preparing these documents and reports.

16. CMS may suspend or end any project in whole, or in part, any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the project. CMS will promptly notify the awardee in writing of the determination and the reasons for the suspension or termination, with the effective date. The budget neutrality test will be applied on the time period through termination without adjustment.

17. CMS reserves the right to unilaterally terminate the demonstration and the accompanying federal matching authority if CMS determines that continuing the demonstration would no longer be in the public interest. If a family planning demonstration is terminated by CMS, the State will be liable for cumulative costs under the demonstration that are in excess of the cumulative target expenditures specified in the Expenditure Review section of Attachment A for the demonstration year of withdrawal.

18. After waivers are granted, CMS reserves the right to terminate them if agreement cannot be reached on any item(s) cited in this document. The State also has the same right.

19. At any phase of the project, including the project's conclusion, the awardee, if so requested by the project officer, must submit to CMS analytic data file(s), with appropriate documentation, representing the data developed/used in end-product analyses generated under the award. The analytic file(s) may include primary data collected or generated under the award and/or data furnished by CMS. The content, format,

documentation, and schedule for production of the data file(s) will be agreed upon by the principal investigator and the CMS project officer. The negotiated format(s) could include both the file(s) that would be limited to CMS internal use and the file(s) that CMS could make available to the general public.

20. At any phase of the project, including the project's conclusion, the awardee, if so requested by the project officer, must deliver any materials, systems, or other items developed, refined or enhanced during or under the award to CMS. The awardee agrees that CMS will have royalty-free, nonexclusive and irrevocable rights to reproduce, publish or otherwise use and authorize others to use the items for Federal Government purposes.

21. The awardee will cooperate fully with CMS or the independent evaluator, selected by CMS, to assess the impact of the Medicaid demonstrations. The awardee will submit the required data to the contractor or CMS.

22. Failure to operate the demonstration as approved and according to Federal and State statutes and regulations will result in withdrawal of waivers. The Federal statutes and regulations with which the State must comply in the operation of the demonstration include civil rights statutes and regulations that prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and religion, including Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act, and the nondiscrimination provisions of the Omnibus Budget Reconciliation Act of 1980.

23. An evaluation design report must be submitted to CMS for approval 120 days from the award. At a minimum, the evaluation design should include a detailed analysis plan that describes how the effects of the demonstration will be isolated from those other initiatives occurring in the State. The report should also include an integrated presentation and discussion of the specific hypotheses (including those that focus specifically on the target population for the demonstration) that are being tested. The report will also discuss the outcome measures that will be used in evaluating the impact of the demonstration, particularly among the target population. It will also discuss the data sources for assessing these outcomes. Finally, it will discuss how the referral process for primary care will be evaluated.

24. In producing the Final Evaluation report for the initial Waiver period of September 1997 through the end of the extension of the initial waiver, when calculating births averted, the evaluator should use fertility rates of the demonstration participants rather than the general population as it did in the interim report submitted on April 29, 2002. The fertility rates of the demonstration participants must also be used for the renewal period.

25. A phase-out plan for the demonstration needs to be submitted for approval to CMS within 90 days of the award. The phase out plan must incorporate the fact that the State is responsible for informing enrollees of the fact that the demonstration will end 3 years from the beginning date.

26. Within 30 days from the award, the State shall submit a detailed implementation schedule.

27. Family planning expenditures under the Medicaid program have increased in recent years and CMS is interested in monitoring these expenditures. Thus, as part of our overall monitoring of the demonstration, CMS will also be monitoring the rate in expenditure growth for family planning services. This monitoring will be done on a per capita basis, using total expenditures recorded during the first year of the demonstration as a baseline. As a frame of reference we will be comparing the annual rate of growth of actual expenditures with the baseline amount trended forward using CPI Medical. The comparison of actual per capita expenditures over the life of the demonstration and per capita expenditures trended using CPI Medical will be considered if the State should seek an extension of their family planning demonstration.

    In addition, a federally-contracted evaluation will examine the appropriateness of the budget neutrality methodology of these demonstrations by assessing the births that have been averted as a result of the demonstrations, the data sources currently used to assess averted births and budget neutrality, and expenditures overall. Based on the evaluation findings and other information, CMS reserves the right to negotiate a new budget neutrality methodology, if CMS deems appropriate. Such a methodology change could range from a change in data sources used to determine budget neutrality, to a total change in methodology, such as incorporating a per capita cap like the one described above. Any and all changes to the budget will be made in full consultation with the State, including expenditure data used in the methodology.

Attachment A
Monitoring Budget Neutrality for the
Arkansas Family Planning Program

Following is the method by which budget neutrality will be monitored for the Arkansas Family Planning Program.

Arkansas will be subject to a limit on the amount of Federal Title XIX funding it will receive for extending Medicaid eligibility for family planning services during the demonstration period. This limit will be determined using a pre-post comparison of fertility rates for demonstration participants. Thus, Arkansas will be at risk for the cost of family planning services (including traditional family planning services at the enhanced match rate and ancillary services described in Special Term and Condition 7 at the FMAP rate) that are not offset by the demonstration intervention, which aims to increase the number of women receiving comprehensive reproductive health services while reducing unintended pregnancy for persons with income at or below 200 percent of the FPL. The demonstration will not change the current division of Federal and State responsibility for costs of the current Medicaid program. CMS will confirm that the demonstration expenditures do not exceed the levels that would have been realized had there been no demonstration.

Annual Budget Limits

To calculate the overall expenditure limit for the demonstration, separate budget limits will be calculated for each year, which will be on a Demonstration Year (DY) basis. These annual estimates will then be added to obtain an expenditure estimate over the entire demonstration period. The Federal share of the estimate will represent the maximum amount of Federal financial participation (FFP) that the State can receive during the expanded family planning services demonstration. For each DY, the Federal share will be calculated using the Federal Medical Assistance Percentage (FMAP) rate(s) for that 12-month period.

The intent of the demonstration is to avert unplanned or mistimed pregnancies to offset the cost of family planning services for demonstration participants. During each year of the demonstration, the number of births averted (BA) will be estimated by the following equation:

> BA = (base year fertility rate - fertility rate of family planning demonstration participants during DY) x (Number of demonstration women during DY), where fertility rates will be measured per thousand. The base year fertility rate will be adjusted for age, using the age distribution of the actual demonstration participants and predetermined age-specific fertility rates. Participants are all women who obtain one or more covered family planning service(s) through the demonstration. At its option, the State may also adjust the fertility rates for ethnicity.

The average cost of a birth (BC) during each year of the demonstration will be the following:

> BC = (cost of prenatal services + delivery and pregnancy related costs + costs for infants through year 5 of life)/number of deliveries, where the costs and number of deliveries are for Arkansas' Medicaid program.

The annual budget limit will be the savings that are calculated by multiplying the number of births averted (BA) by the average cost of a birth (BC).

Base-Year Fertility Rate

The State will submit to CMS base-year fertility rates and a methodology for calculating the fertility rates. Preliminary base-year fertility rates must be submitted for approval within the first operational year of the demonstration and conform to the following requirements:

a. They must reflect fertility rates during the Base Year (FY 1995) for women in families with income up to 200 percent of the FPL and ineligible for Medicaid except for pregnancy.

b. They must be adjusted for age for all potential demonstration participants.

c. The fertility rates will include births paid for by Medicaid.

The State will be allowed up to 6 months after the end of the first demonstration year to finalize these preliminary rates. Following the conclusion of each year of the demonstration, a waiver year fertility rate will be determined by summing the age-specific rates using the age distribution of the demonstration participants during that DY to weight the age-specific fertility rates, unless the State demonstrates that the age distribution is consistent with the prior demonstration year(s). The annual age distribution categories will correspond with the base-year age-specific fertility rates.

How the Budget Limit Will Be Applied

The budget limit calculated above will apply to waiver expenditures, as reported by the State on the CMS-64 forms. If, at the end of the demonstration period, the costs of the waiver services exceed the budget limit, the excess Federal funds will be returned to CMS.

Expenditure Review

CMS will enforce budget neutrality over the life of the demonstration, rather than annually. However, no later than six months after the end of each demonstration year or as soon thereafter as the data are available, the State will calculate annual expenditure

targets for the completed year. This amount will be compared with the actual claimed FFP for Medicaid. Using the schedule below as a guide, if the State exceeds these targets they will submit a corrective action plan to CMS for approval. The State will subsequently implement the approved program.

Year	Cumulative Target Expenditures	Percentage
Year 1	Year 1 budget limit amount	+8 percent
Year 2	Years 1 and 2 combined budget limit amount	+4 percent
Year 3	Years 1 through 3 combined budget limit amount	+2 percent

The State, whenever it determines that the demonstration is not budget neutral or is informed by CMS that the demonstration is not budget neutral, shall immediately collaborate with CMS on corrective actions, which shall include submitting a corrective action plan to CMS within 21 days of the date the State has been informed of the problem. While CMS will aggressively pursue corrective actions with the State, CMS would work with the State to set reasonable goals that would ensure that the State is in compliance by the end of year three.